



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Masami SHIRAISHI

Group Art Unit: 1761

Application No.: 10/526,562

Examiner: T. SIMONE

Filed: March 4, 2005

Docket No.: 120816

For: FULL AUTOMATIC RICE COOKING APPARATUS

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Appeal is attached. Applicant respectfully requests review of the Final Rejection mailed October 30, 2006 regarding the above-identified application in light of the following remarks.

Claims 2, 3, 6, 7, 9-11, 20 and 21 are pending in this application. The Office Action rejects the pending claims under 35 U.S.C. §103(a) over, what applicant interprets to be, any of JP A 02-029216, JP B2 07-4320, JP A 07-231847, or JP A 10-24239, in view of U.S. Patent No. 5,498,431 to Lindner. These rejections are respectfully traversed.

Claim 6 is an independent claim. All of the remaining claims depend, directly or indirectly on claim 6. The Office Action concedes that none of the Japanese references discloses the claim 6 kettle washing means having an ultrasonic generator. The Office Action relies on Lindner as at least suggesting this feature. The Office Action asserts that Lindner discloses that it was known in the art to provide an ultrasonic generator for treating foods such as cereals. However, Lindner does not teach the relevant features of the pending claims.

Lindner discusses techniques of cleaning fruits and vegetables using ultrasonic oscillation (col. 3, lines 25-40). The objects of cleaning are contaminants such as mud, biological contamination, microbiological flora, such as mold fungi, fungi, worms, bacteria, microbes and also chemicals such as pesticides, fertilizer residues and the like. Lindner is specifically directed to detoxification of mycotoxins present on cereal products or treated products under gentle conditions (see col. 3, line 64 - col. 4, line 3). These uses are directed to cleaning foodstuffs. The subject matter of the pending claims provides a rice kettle washing means for washing the inner wall of the rice kettle having an ultrasonic generator. As positively recited in claim 6, the automatic rice cooking apparatus comprises a rice kettle washing means for washing an inner wall of the rice kettle having an ultrasonic generator propagating ultrasonic waves to water supplied into the rice kettle. Lindner does not teach, nor can it reasonably be considered to have suggested, such a feature, at least because cleaning foodstuff does not correspond to washing the sides of a cooking kettle.

As such, Lindner does not remedy the shortfall in the application of any of the Japanese references.

Further, Lindner is not analogous prior art. Lindner is directed to a processing device for detoxicating and decontaminating foodstuff, in particular, cereals, seeds used as foodstuff and/or fodder (see Abstract). Such a processing device is not reasonably related to a rice cooker. In other words, one of ordinary skill in the art would not have looked to combine a food decontaminator in order to solve the problems addressed by the pending claims. There is nothing in Lindner to suggest that the ultrasonic generator disclosed in that reference would be effective for removing leftover rice adherent to the rice kettle, as described in paragraph [0045] of Applicant's specification as filed. The Office Action broadly asserts that because Lindner discloses that it is known to use an ultrasonic generator propagating ultrasonic waves for the purposes of cleaning, it would have been obvious to provide an ultrasonic generator in

a rice kettle. This assertion ignores the fact that the mechanisms and technologies for removing glue-like rice grains adherent to an inner wall of a kettle do not correspond to those of removing mud from the surface of food floating in water.

First, floating food particles can vibrate in water according to the ultrasonic wave. The inner wall of the kettle is solid and fixed. As such, the effects of ultrasonic waves on the respective objects are different.

Second, the attachment of mud, worms, or other like contaminants onto the surface of food particles does not correspond to cooked, glue-like, rice grains adhered onto an inner wall of a cooking kettle.

The differences in the attachment methods between, for example, mud on the surface of vegetables, and cooked rice on a cooking kettle necessitate differences in the ultrasonic waves used for detaching the respective material. An ultrasonic wave brings about two distinct effects in water; one is creating cavitations, or microbubbles in water, and the other is attacking the inner surface of the water container (erosion). The washing of vegetables floating in water primarily uses the cavitation creating effect, and the removal of rice grains adhered to an inner surface of a kettle uses the erosion effect. Low-power ultrasonic waves of high-frequency (100 kHz) are suitable for creating cavitations, and high-power, low-frequency (20-50 kHz) ultrasonic waves are suitable for causing erosion. Thus, one of ordinary skill in the art would understand that the application of the ultrasonic waves is different between gently cleaning foodstuff, as in Lindner, and washing a kettle wall, as recited in the pending claims.

As such, one of ordinary skill in the art would not have been motivated to combine the references in the manner suggested.

Finally, the conclusory statement regarding obviousness to combine the Japanese references and Lindner does not meet the articulated standard for providing a teaching,

suggestion or motivation in the prior art to combine these references in the manner suggested by the Office Action. Specifically, the Office Action merely asserts that it would have been obvious to combine these references, if desired. No specific suggestion is articulated.

The Federal Circuit recently affirmed prior holdings asserting that "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obvious." *In re Kahn*, Appeal No. 04-1616, March 22, 2006 (Fed. Cir.) (quoting *In re Lee*, 277 F.3d 1338, 1343-46 (Fed. Cir. 2002) and *In re Rouffet*, 149 F.3d 1350, 1355-59 (Fed. Cir. 1998)). This standard is not met here.

MPEP §2143.01 instructs that "[t]he mere fact that references can be combined or modified does not render the resulting combination obvious unless the prior art also suggests the desirability of the combination." MPEP §2143.01 further instructs that "[a]lthough a prior art device may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." See, *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Applicant respectfully submits that the rejection of the pending claims is improper in view of at least MPEP §2143.01 because the Office Action lacks the required specific objective evidence of a teaching, suggesting or motivation in the prior art for one of ordinary skill in the art to combine these references in the manner suggested.

In summary, no permissible combination of the applied prior art references can reasonably be considered to teach, or to have suggested, the combinations of all the features positively recited in at least independent claim 6. Additionally, claims 2, 3, 7, 9-11, 20 and 21 are also neither taught, nor would they have been suggested, by the applied prior art references for at least the respective dependence of these claims directly, or indirectly, on

allowable independent claim 6, as well as for the separately patentable subject matter that each of these claims recite.

In view of the foregoing, Applicant respectfully requests that the Review Panel review the substance of the October 30, 2006 Final Rejection. Applicant believes that upon such review, the Review Panel will determine that a *prima facie* case for obviousness of the subject matter of the pending claims over the applied prior art references has not been established. In this regard, favorable reconsideration and prompt allowance of claims 2, 3, 6, 7, 9-11, 20 and 21 are earnestly solicited.

Should the Review Panel believe that anything further will be desirable in order to place this application in even better condition for allowance, the review panel is invited to contact applicant's undersigned representative.

Respectfully submitted,



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JAO:JEG/hms

Date: January 30, 2007

Attachment:
Notice of Appeal

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